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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Concluding observations on the initial report of Andorra

Addendum

Information received from Andorra on follow-up to the concluding observations*

[Date received: 10 November 2014]

A. Introduction

1. The Committee against Torture adopted its concluding observations (CAT/C/AND/CO/1) during its 1206th meeting, held on 21 November 2013, following its consideration of the initial report of the Principality of Andorra. The Committee requested the State party to provide, within one year, information on the follow-up of three recommendations relating to (a) access to a doctor of their own choice for persons deprived of their liberty from the outset of deprivation of liberty; (b) sensitizing and training law enforcement personnel and judicial officials; and (c) strictly monitoring and supervising the use of electrical discharge weapons.

2. The Principality of Andorra presents below information regarding implementation of the Committee's recommendations.

B. Response to the recommendation contained in paragraph 8 of the concluding observations

3. Qualified Act No. 17/2014, adopted on 24 July 2014, amended the Qualified Act amending article 24, among others, of the Code of Criminal Procedure of 10 December 1998, which was in force at the time of the consideration of the State party report and the subsequent adoption of the concluding observations on which follow-up information was requested.

* The present document is being issued without formal editing.

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4. The above-mentioned legislative amendment, which entered into force on 4 September 2014, recognizes the right of all suspects and detained persons who are required to make a statement to the police, or in connection with whom a house search or identity parade is conducted, to be informed immediately of their right to, inter alia, be examined by a forensic physician and also by a doctor of their choice, with the costs of the latter to be borne by the suspect or detained person.

5. This is a right of all suspects and detained persons, regardless of whether the detention is administrative or judicial in nature, and it is not subject to a minimum period of detention.

C. Response to the recommendation contained in paragraph 13 (c) of the concluding observations

6. Regarding sensitization and training of law enforcement personnel in the investigation of domestic violence cases, new recruits to the police force received such training in 2014, with respect to both the classification of offences under the Criminal Code and the way in which such situations should be dealt with by patrol officers as first responders.

7. Provision is also to be made for the participation of two police officers in a specialized course in investigation of domestic violence and gender-related crimes, offered by the Centre for Basic and Specialized Training of the Spanish National Police.

8. With respect to the training of members of the judiciary and the Public Prosecutor's Office, training agreements are in place with the French National School for the Judiciary and the Spanish General Council of the Judiciary, which enables Andorran judges, magistrates and prosecutors to participate in training activities on various subjects, including domestic and gender-based violence.

9. The Interdisciplinary Team on Gender Violence, a unit established in December 2006 under the Ministry of Health and Welfare, is tasked with assisting women who are victims of gender-based violence. In cooperation with the Ministry of Education and Youth, the team runs annual workshops aimed at preventing abusive behaviour among students aged 15 and 16 in the country's educational centres. In addition, every year it organizes awareness-raising campaigns on gender-based violence. Details on activities carried out by the interdisciplinary team in recent years are provided below:

- In 2009, professionals from the team organized a conference aimed at the general public, entitled "Gender-based violence: a comprehensive approach";
- In 2010, the team participated in a project involving a theatre performance aimed at the general public and at the educational community, entitled "The End of a Fairy Tale". The team also participated in several interviews on Andorran radio and one interview for the written press published in the *Diario de Andorra*. Lastly, one professional from the team took part in a programme on Andorran public television;
- In 2012 a conference was held for the general public entitled "Intervention by the Interdisciplinary Team on Gender Violence: The Case of Marta". The psychologist Raúl Lizana, author of the book *A mi también me duele. Niños y niñas víctimas de la violencia de género en la pareja* (It Hurts Me Too: Child Victims of Domestic Violence), participated in this event;
- In 2013, Álvaro Ponce Antezana, doctor in social psychology, led a conference on men, masculinity and violence;

- On 25 November 2014, a video forum on gender-based violence will be held, moderated by Vanesa Mendoza, president of the Sakura-Onna Association, with the participation of the Minister of Health and Welfare and the *cónsol major* (mayor) of Andorra la Vella.

10. Additionally, every 25 November, coinciding with the International Day for the Elimination of Violence against Women, the interdisciplinary team takes part in a press conference to present data on gender-based violence and information on activities carried out.

11. On 22 April 2014, the Principality of Andorra deposited its instrument of ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), thereby enabling its entry into force.

12. Lastly, it should be mentioned that all the parliamentary groups represented in the *Consell General* (National Parliament) have reached agreement on a bill aimed at combating and eliminating gender-based violence, drawing on the provisions contained in the Istanbul Convention. The new law will regulate matters relating to maintenance for women and children who are victims of gender-based violence, women's right to access court-appointed counsel through the free legal aid system, and other measures relating to prevention, awareness-raising and early arrest. The bill is expected to come before Parliament on 25 November 2014, coinciding with the International Day for the Elimination of Violence against Women.

D. Response to the recommendation contained in paragraph 19 of the concluding observations

13. In response to this specific observation, and to the recommendation made to Andorra by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in its most recent report, dated 15 October 2012, the Government adopted regulations on 19 November 2014 on the carrying and use of firearms and on coercive methods authorized for use in prisons. The regulations are expected to enter into force on 27 November 2014.

14. These regulations classify electrical discharge weapons as a coercive method of defence to be used only by members of prison staff authorized for that purpose, who are to be selected on the basis of their ability to withstand stress and their capacity for discernment, among other factors. In order to receive authorization, staff members must undergo and successfully complete specific, ongoing training in carrying and using coercive methods of defence.

15. Such weapons may be carried in all prison facilities, but authorization to carry them is directly related to the conditions of use, and they are therefore not included in the standard equipment for daily use.

16. The use of electrical discharge weapons (or, in the terms of the regulations, electrical discharge transmitters) is reserved for cases of serious active resistance by a prisoner, but only if there are reasonable grounds to believe there is a serious threat of death or bodily harm to the prisoner, prison staff or third parties. Their use on pregnant women and children is expressly prohibited, and under no circumstances may they be used merely as a control or security measure.

17. Clear advance warning of the intention to use an electrical discharge weapon must always be given in person, and sufficient time must be given for the prisoner to take this warning into consideration. If the warning goes unheeded and the prisoner intentionally prolongs the situation, whenever possible the established order of procedure must be

followed: before using an electrical discharge weapon, an attempt should be made to physically restrain the prisoner by means of handcuffs or expandable or rigid batons.

18. Any use of this type of weapons must be recorded in a specific register, and a full report must be submitted to the Ministry of the Interior, the Public Prosecutor's Office and the judiciary.

19. The prisoner must also undergo a compulsory medical check immediately following the use of an authorized coercive method.

20. The regulations provide for the establishment of a technical committee to evaluate and monitor coercive methods, one of whose members is a doctor. The functions assigned to it under the regulations include:

- Establishing how and in what circumstances each coercive method may be used, taking into consideration the potential risks to the physical and psychological integrity of prisoners;
- Determining the number and intensity of the electrical shocks that can be delivered when using electrical discharge transmitters;
- Checking the data on the memory chips of electrical discharge transmitters, the number of times they have been used, the exact time, and the number of shocks and the duration and intensity of each one, and verifying that those data match the information entered in the relevant register;
- Evaluating and determining at the time of a prisoner's arrival, individually and on the basis of a prior medical examination, whether the possible use of one or more coercive methods should be prohibited or restricted in respect of that prisoner;
- Identifying and assessing, on the basis of prior medical examinations, any changes in a prisoner's health status that may be related to the use of one or more coercive methods, and extending, restricting or prohibiting, as appropriate, the possible use of such methods.